

Summer 6-1-1954

## South Carolina Bar Association Annual Meeting Minutes

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# THE SOUTH CAROLINA LAW QUARTERLY

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BAR ASSOCIATION TRANSACTIONS

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## SOUTH CAROLINA BAR ASSOCIATION ANNUAL MEETING

Held at the Fort Sumter Hotel  
With the Charleston County Bar Association  
As Host  
May 13, 14, 15, 1954

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### MINUTES

Thursday, May 14, 1954

Registration commenced at noon on this date—Walter S. Monteith, Secretary; John A. Mason, Assistant Secretary; J. Bratton Davis, Acting Assistant Secretary in charge.

3:00 P. M.

Committees for the year had their final meetings.

4:00 P. M.

The Sixtieth Annual Meeting of the South Carolina Bar Association was called to order by the President, Samuel L. Prince, and after welcoming the members, he called Vice-President Willcox to the chair to preside, while he, the President, delivered his annual address.

MR. PRINCE:

The polity and regulations of our Association require that the President deliver an address at the Annual Meeting. We note in prescribing this requirement that no prescription is made as to length or purpose. From the standpoint of the President heretofore this address has been the *quid pro quo* for the honor bestowed upon him. However you have fared in this trade, let me assure you that I feel a great debt of gratitude for the honor so accorded me.

The most important need in one's continued physical existence as a human being is that of providing food and clothing and fair shelter. At the same

time in my opinion the most important need in our continued professional lives is membership in our professional societies. A lawyer who, because of training, does not appreciate the value and necessity for membership in legal societies or associations or who, because of his indifference to organized professional responsibility, fails to join with his brother lawyers in organized efforts for improvement in professional living, again, in my opinion, cannot justify the retention of the license granted to him by the State.

As a member of the bar no one of us has a *right* to practice law—only a license, the outstanding characteristic of which is the power of revocation by the grantor—in this instance the State of South Carolina.

This great importance that I entertain for membership in our professional organizations adds emphasis both to the honor and responsibility of having been chosen your President, and for this honor I again wish to thank you.

I shall not undertake to recount here the activities of your Association during the past year. These will be reflected in the reports of your several committees, and to these I invite your careful attention. These splendid reports are a tribute to the wisdom of the Executive Committee of the immediately preceding administration in selecting committees prior to the Annual Meeting and having them to meet at the Annual Meeting and plan their work for the then ensuing year. As a result our Association has changed from a one- or two-man operation to an operation of near two hundred officers and committeemen, and from a one-annual-meeting operation to a continuous operation throughout the year.

No longer are we to be viewed by the public as a social fraternity. Without discounting or casting aspersions upon our social activities (in my opinion, they are most valuable to us all) our Association through its Committee on Public Information is bringing the individual lawyer and the public closer and closer together and is demonstrating a responsibility for enlightening the average member of society as to his rights and duties and the value of the lawyer in rendering aid to him.

There are many reasons for me to be most pleased indeed in being your President. However, there is one fact right now in this year's operation that markedly contributes to this pleasure, and that fact is that we are meeting in Charleston.

Charleston has many firsts in my life. It was the first city that I visited by myself alone, when I was a little less than 14 years of age. I stayed at a boarding house next to St. Michael's Church operated by a Mrs. Waters. Here was the first time that I rode a streetcar and for a nickel rode the entire Beltline. Here it was that I saw my first Shakespearean play, Stuart Robson playing in the "Comedy of Errors," and it was on this visit that, despite the warning against the degradation of the life of the drunkard as conveyed by the horrible picture of the drunkard's stomach in my textbook on physiology, I approached a policeman and spoke to him in this manner: "Sir, I am a visitor in your town. Is there any way that I can get a mug of beer?" I was not arrested, nor was I told to run on and play marbles. On the contrary, with a smile of pleasurable anticipation this new friend directed me to a corner grocery store and told me to go in and he would go down a side street and in a back door and meet me. This I did, and, as I recall, for a dime I not only got a mug of beer but got one for my friend too.

There are many things that attract me to Charleston and its bar, and to be in not quite so light a vein it was this same Charleston and its bar some sixteen years ago that initiated me into the Special Judiciary in the Court of Common Pleas. I am frank to say that I undertook this assignment with a great deal of misgiving and downright fear, but the wonderful courtesies and consideration of the members of this Charleston bar and the officers of its Court enabled me soon to relax and forget the alarm that I had had in anticipating this first judicial effort.

During the past twelve months I have taken the time off to read the transactions of our Association from its organization in 1884 up to date. I have been struck by three things: one, the forward look of the members and of the activities of the Association; second, the major emphasis that the members of this Association have given to this matter of study and training for the profession; third, the interest of the Charleston bar in organized professional effort.

In considering the forward look of our Association, I have tried to discover why, though much suggested legislative action has been accomplished, many more important efforts in the matter of influence in legislation have been abortive. It occurs to me that in those efforts of the Association to bring about particular legislative action looking towards the improvement of the bar or the improvement of the administration of justice by way of changed procedure and the like we have failed either to sell first our legislative leaders or to sell the judiciary. We should have learned by now that the frowns of unsold members of the judiciary carry a great deal more weight than all the resolutions that the Bar Association can enact and that this is also true of key men in our legislative halls. This observation is in no sense a criticism of our judiciary or of the key legislative leaders, but rather does the fact reveal that our liaison with the judiciary on the one hand and with legislative leaders on the other is not what it should be. Where in the past we have had either or both of these powers well sold on a legislative action, we have had success in our effort. It seems that one way to improve this situation is that instead of having a standing Committee on Legislation we leave the matter of following through with recommended legislation to the Executive Committee as a special committee on legislation with full power of substitution. The Executive Committee then can designate those specially interested to carry forward the campaign for the recommended legislation.

As to my second observation, although the major interest of the members of this Association during the past 70 years has been the matter of study and training for the profession, it is not something new, for leading members of the profession have had a concern for this training since the days of the Roman lawyer.

A most interesting publication in our State was the "Carolina Law Journal" published in 1830-1831. There were four issues of this journal edited by A. Blanding and D. J. McCord. The first issue appeared about July, 1830, and the next issue in October. These were followed by one in January and the fourth in April of 1831. The editors on the last page of the fourth issue state: "For reasons which it is unnecessary to state the work will be discontinued." The first article in Issue No. 1 of this Volume I is attributed to Hugh Swinton Legare of the Charleston bar, who ten years later became Attorney General of the United States. This article is on the subject of "The

Study of the Law." It is directed chiefly at the right of the state to control the members of the legal profession. Mr. Legare asserts that the interest of a member of the bar as compared with the interest of the public in its relations to members of this profession is so small and trifling that this interest of the members of the bar is "not worth consideration." To quote him specifically: "No one would think of enacting laws to protect the trustee from the acts of the *cestui que* trust; the attorney against the devices of his principal; the factor against the contrivances of the planter;" the attorney against the acts of his client. "On the contrary, we all know that the agent is the person who has the principal in his power. There he is entirely at his mercy, and that in fact no law can save the principal from many, very many, acts of mismanagement and bad faith on the part of his agent." Continuing then in his subject of the position of the lawyer, he states: "Surely they hold this vantage ground. How important it is then that they should be men of cultivated intellects, pure morals, and elevated principles."

Mr. Legare was very much concerned over the fact that we were relaxing the requirements for admission to the bar instead of strengthening them.

We are indebted to Mr. Legare for calling to our attention in the article the concern that Cicero had for the training of the lawyer and his complaint against the ignorance of some of the lawyers in his time. Mr. Legare quotes freely from the cases which Cicero cites as demonstration of crass ignorance on the part of certain lawyers.

We are also indebted to Mr. Legare for calling to our attention in this article the concern of Lord Coke for the continuation of study and training by the lawyer. Lord Coke emphasized study not only before but also after being called to the bar. The great Chief Justice is then quoted: "And yet he that at length by these means shall attain to be learned, when he shall leave them off quite, for his gain or his ease, soon shall he . . . lose a great part of his learning. Therefore, as I allow not to the student any discontinuance at all (for he shall lose more in a month than he shall recover in many), so do I recommend perseverance to all, as to each of these means an inseparable incident."

As I have already stated, our Association from its very first meeting has been vitally interested in this matter of training for the bar. Under the leadership of President A. G. Magrath in 1885, there is a strong report on education for the bar and admission to the bar. I also observed in a 14-year period from 1910 to 1924 that there are many reports, motions, addresses, and the like dealing with this subject generally and in many instances specially, and including specifically the facilities and operations of the Law School of the University of South Carolina.

This now leads me to my third observation noted above as a result of studying our past transactions. In all of this we find the members of the Charleston bar displaying a keen interest. During the first five-year period of the Bar Association's existence, three of the Presidents were members of the Charleston bar: A. G. Magrath, Charles Richardson Miles, and Henry E. Young. This prominence of the Charleston bar has been further extended in the last 30-odd years by the fact that during that period of time our host Association has furnished four of the South Carolina Bar Association Presidents: Thomas W. Bacot, Arthur R. Young, John I. Cosgrove, and J. N. Nathans.

I would not have you think that I am of the opinion that the Charleston bar has been the whole South Carolina Bar Association; but this I do say—the records of the Association reveal an interest and activity in organized professional efforts on the part of the members of the Charleston bar that is most praiseworthy and an inspiration to all of us.

It is to be noted that Henry E. Young of the Charleston bar was one of the founders of the American Bar Association, attending the conference held in Saratoga Springs, New York, in August, 1878. Upon the completion of the organization, he became one of the first Vice-Presidents, holding the office from 1878 to 1879. He was really the only member of the American Bar Association from South Carolina during that time. He distinguished himself the following year by writing a paper on the Sunday laws. In 1879, fifteen additional members were elected from South Carolina. All of these were from Charleston. Charleston also has the honor of having provided a member of the Board of Governors from 1938 to 1941, being George L. Buist.

In conclusion, as I surrender this responsibility and pass it on to other hands, may I suggest to each of our members that he budget his time and allot at least a small portion of it to organized bar efforts. I also respectfully recommend that in recognition of their long and able service we elect as honorary members those who have been members of the Association for 50 years or more. Finally, may I say to those who have so ably served as fellow officers and committee members during the past year that the members generally of our Association are deeply grateful to them for their efforts. For my part, I, as retiring President and as an individual member of the Association, will always hold in grateful remembrance the devoted efforts of the officers and committee members of the Association, and I give to them my assurance that, like them, I will continue to the utmost of my ability to work for and promote the interest of our Association.

The President resumed the chair and called on Secretary Monteith to make his report. After some oral comments Mr. Monteith read his financial statement as follows:

#### MR. MONTEITH:

Bank Balance May 2, 1953 .....	\$ 2,272.16
Dues Collected .....	8,757.00
Sale of Publication Columbia University Press .....	20.00
Reimbursement Institute Pamphlet .....	105.00
<b>Total .....</b>	<b>\$11,154.16</b>

#### *Disbursements:*

Orchestra .....	\$ 125.00
Refund — Dues .....	12.50
Secretary Salary .....	975.00
Telephone .....	116.38
Refreshments — 1953 Meeting .....	76.39
Hotel Bill — 1953 Meeting .....	1,094.56
Convention Speaker .....	150.00
Institute Speaker .....	200.00

Institute Pamphlets .....	105.00	
Travel .....	58.90	
Printing — Postage — Supplies .....	811.81	
Flowers .....	10.30	
South Carolina Law Quarterly .....	2,805.00	
Steno Help .....	161.25	
Publication Columbia University Press .....	100.00	
Legal Film .....	165.00	
Law Directory .....	45.00	
Grievance Committee Meeting .....	13.91	
President Dues — National Conference Examination.....	25.00	
Bank Charges .....	1.47	7,052.47
		<hr/>
Bank Balance May 10, 1954 .....		\$ 4,101.69

WALTER S. MONTEITH, *Secretary*.

Following this report, it was referred to a special auditing committee consisting of J. W. Bradford, W. H. Arnold, and Edward H. Ninestein.

Harvey L. Golden, Editor-in-Chief of the *South Carolina Law Quarterly*, was next recognized and spoke of the work of the *Quarterly* and expressed appreciation of the fine support that the *Quarterly* was given by the Association. He presented Dexter R. Hamilton, who would be the Editor-in-Chief for the summer semester.

The President then called upon Mr. Coleman Karesh of the faculty of the University Law School, Chairman of the Committee on the Review of Case Law, to give this committee report. Mr. Karesh told of the work of this committee during the year and of the fact that its survey would be completed during the summer and published in the September issue of the *Law Quarterly*. He requested that the personnel of the committee be carried over until it completed the work of this survey for the year ending this May and that the new committee take charge in September of 1954. Vice-President Willcox announced at the conclusion of the report by Professor Karesh that the committee personnel would be continued until the coming September.

Charles W. Muldrow of the Florence Bar explained to the Association the setup of bar organizations in his county. He stated that there were some members of the bar of Florence County who did not care to be taxed for social meetings of the Florence County Bar Association, and, therefore, the lawyers of this county had set up an organization of all the lawyers of the county for ordinary bar activities — arranging rosters and the like — and to this association every lawyer in the county is required to make a regular contribution.

He further stated in addition, that they had the Florence Bar Association, the chief function of which was social events. Its membership was voluntary. The President thanked Mr. Muldrow for bringing the information and expressed the idea that it looked as though the Florence County Bar had been integrated.

The chair recognized Robert McC. Figg, Jr., President of the Charleston County Bar Association, who, in addition to welcoming the State Association, made announcements as to the various events during the holding of the annual meeting.

E. Smythe Gambrell of the Atlanta, Georgia Bar who is now Chairman of the American Bar Association Committee on Regional Meetings was introduced to the Association. Mr. Gambrell was thanked for his attendance at our annual meeting and was complimented on the fine regional meeting of the American Bar Association which his committee had held in Atlanta in March.

Frank B. Gary, Jr., of the Columbia Bar, Chairman of the Executive Committee of the Association, next gave the report of the Executive Committee.

MR. GARY:

#### *Our Association Secretary*

For a great many years Walter S. Monteith of the Columbia Bar has served as our Secretary. Mr. Monteith has been most able and accommodating. Over the past several years he has advised this committee that the Association needed a man who could devote more time to the office than it was possible for him to do and look after his practice. We have prevailed upon him to remain as our Secretary during the rest of this calendar year, and this he has agreed to do. Your committee has selected John A. Mason as Secretary to succeed Mr. Monteith at the end of this calendar year and, in the meantime, to act as Assistant Secretary. On behalf of the Association we extend thanks to Walter for his long and able service.

#### *Our Quarterly Meetings*

During the past year we have had three quarterly meetings of the Association, each devoted to some live phase of the law. These have all been very fine and beneficial. The one on rules of civil procedure (prior to trial) in the United States District Courts calls forcibly to our attention the fact that our own procedure has not been rethought for over 80 years. It is a most interesting circumstance that prior to 1938 the rules of civil procedure in the United States District Courts were the most complicated and hardest to be understood by the average lawyer, whereas under the new rules in these courts since 1938 there is a procedure that is the simplest to be found in the courts of any civilized nation. Another interesting fact is that these new rules were worked out by a group of committees of lawyers from throughout the United States, the committee members from South Carolina being C. Erskine Daniel of Spar-



tanburg, William S. Nelson of Columbia, Harry L. Erckmann of Charleston, Samuel L. Prince, then of Anderson, and J. E. Davis of Florence. Another very interesting fact about the adoption of these rules is that the committees in developing a pattern as a base to work from were advised by the Chief Justice of the United States to consider the rules of civil procedure of South Carolina. We therefore feel that we in South Carolina have contributed to the success of the new rules. Though we may feel that we have contributed to this success, we should be mindful of the fact that these new rules are quite an improvement in the matter of the administration of justice over our present rules in South Carolina. We feel that our own rules should be rethought and, therefore, are calling this to the attention of our committee on procedure and law reform.

#### *South Carolina Law Quarterly*

We again call the attention of the Association to the high quality of the South Carolina Law Quarterly, a joint operation of the Association and the Law School of the University of South Carolina. This publication has great value for us, and particularly since its articles are now digested in the West Publishing Company "South Carolina Digest", it is very important that the members of the Bar of our State be subscribers and that they have their copies bound. To attempt in this report to assess properly the value of the Quarterly to any practitioner here in South Carolina would take too much time—some idea of this value may be gained by simply glancing through the 25 pages of the cumulative index of the first five volumes appearing in the Issue No. 4 of Volume 5 of the publication.

#### *Insurance Program*

I am glad to advise you that our professional disability insurance program is making progress, not as rapid as we had hoped but progress just the same. At this time about 166 members of our Association are insured under the program. This is about 33-1/3% of our membership. I am informed that 20 of those covered were not members of the Association before taking out the insurance. May I call your attention to the requirement that when 50% of the membership shall have become insured all of the members of the Association will be eligible for insurance without physical examination and irrespective of their physical condition. If for no other reason than to help our brother practitioners who cannot buy insurance individually, it seems to me that we should try to get past this 50% as promptly as possible. Representatives of the insurance company are here at this convention for the purpose of assisting any of you who may desire to participate.

#### *American Bar Foundation*

During the year 1953-54 the South Carolina Bar Association undertook to try to raise South Carolina's quota of about \$12,000 for the American Bar Foundation. So far we have raised about 35% of our allocated amount. Some of the cities and towns have done quite well but others have made no showing at all. You will find literature available at the registration desk on this subject and may I urge you to consider it carefully in the light of making some reasonable contribution.

### *Conclusion*

May I take this opportunity of expressing my thanks to the other members of the Executive Committee with whom it has been necessary to work very closely during the past year and who have cooperated in the best possible manner.

Sam R. Watt of the Spartanburg Bar, Chairman of the Committee on Legislation, made the report of this committee.

MR. WATT:

*To the South Carolina Bar Association:*

Pursuant to the action of the South Carolina Bar Association, your Committee appeared before the Judiciary Committee of the Senate and the Judiciary Committee of the House and presented the facts concerning integration of the Bar with the request that these Committees sponsor a Bill for the Integration of the Bar of South Carolina. We were cordially received by each of these Committees and a number of questions were asked by Members of the Committee. We, however, were unable to get either Committee to sponsor the Bill.

We are indebted to Honorable Samuel L. Prince and Mr. David W. Robinson for their assistance in presenting this matter to these Committees.

We recommend that the Bar continue its efforts to have an Integrated Bar in South Carolina.

The chair called upon the Secretary, Walter S. Monteith, for announcements, at the same time extending the thanks of the Association to Mr. Monteith for the good work that he had done for the Association.

The circuits were called upon to caucus and select their several members of the nominating committee for the next year. The President called attention to the pamphlets and books that were on the table in the convention hall that would be of interest to the members of the Association and also directed the attention of the Association to the splendid poster exhibit that the Committee on Public Information had arranged and which was established on the mezzanine floor of the hotel.

The meeting recessed at 5:30. Caucuses were held.

During the afternoon the visiting ladies were given a tour of Charleston homes.

### **Thursday Evening**

At 6 o'clock the host association entertained the members and their ladies and guests at a cocktail party with light refreshments in Hibernian Hall.

At 7:30 the Association convened at the Dock Street Theater where they were graciously welcomed by Honorable William McG. Morri-

son, the Mayor of the City of Charleston. The Honorable Robert G. Storey, Immediate-Past President of the American Bar Association, delivered the annual address after being introduced by Frank B. Gary, Chairman of the Executive Committee.\*

### 9:30 P. M.

Reception and dance at Fort Sumter Hotel.

The Title Guarantee Company gave a cocktail party in the hotel immediately preceding the reception and dance. The Director of the reception was J. Bratton Davis of the Columbia Bar. The receiving line included the following: President and Mrs. Prince, Dean and Mrs. Robert G. Storey, Mr. and Mrs. Donald Richberg, Governor and Mrs. Byrnes, Mayor and Mrs. Morrison, Justice and Mrs. Stukes, Judge and Mrs. C. C. Wyche, Justice and Mrs. Legge, Judge and Mrs. J. Henry Johnson, President and Mrs. Figg, Vice-President and Mrs. Willcox, Mr. E. Smythe Gambrell, Chairman and Mrs. Frank B. Gary.

### Friday Morning

The Committee on Nominations made its report and the following were elected:

President: Hugh L. Willcox, Florence, S. C.

Vice-President: Calhoun A. Mays, Greenwood, S. C.

Executive Committee (Succeeding Frank B. Gary, Jr.): S. Augustus Black, Barringer Bldg., Columbia, S. C.

#### *Circuit Vice-Presidents:*

First Circuit — Julian S. Wolfe, Orangeburg, S. C.

Second Circuit — Marion L. Powell, Aiken, S. C.

Third Circuit — William E. Jenkinson, Kingstree, S. C.

Fourth Circuit — John P. Gardner, Darlington, S. C.

Fifth Circuit — Arthur M. Williams, 1309 Hampton St., Columbia, S. C.

Sixth Circuit — John A. Martin, Winnsboro, S. C.

Seventh Circuit — E. Emmet Walsh, Glenn Bldg., Spartanburg, S. C.

Eighth Circuit — O. Langdon Long, Laurens, S. C.

Ninth Circuit — Louis M. Shimel, 37 Broad Street, Charleston, S. C.

Tenth Circuit — Edward H. Ninestein, Walhalla, S. C.

Eleventh Circuit — George Bell Timmerman, Jr., Lexington, S. C.

Twelfth Circuit — John B. McCutcheon, Conway, S. C.

Thirteenth Circuit — William G. Acker, Pickens, S. C.

Fourteenth Circuit — H. Wayne Unger, Walterboro, S. C.

The new officers were then presented to the Association.

\*Dean Storey's address is fully published in 40 American Bar Association Journal 483 (June 1954).

W. H. Arnold of the Greenville County Bar, a member of the Executive Committee and Chairman of the Grievance Committee, made the report of the Grievance Committee.

MR. ARNOLD:

Your Grievance Committee reports in brief the following activities during the past year.

Approximately twenty separate complaints were investigated and two meetings were held in Columbia and one in Laurens.

Two Attorneys were disbarred by the Supreme Court, Mr. Robert B. Stall, Jr., formerly of the Charleston Bar, and Mr. Basil W. Hall, formerly of the Beaufort Bar. Mr. Stall recognized that his conduct justified disbarment. Mr. Hall requested the Supreme Court to permit his resignation and agreed in writing that if it was accepted that he would never apply for admission to the Bar. The Supreme Court cited Mr. Hall to appear before the Court at the March term. He did not appear and the Court ordered his disbarment.

Your Committee recommended the disbarment of a third Attorney and he appeared before the Supreme Court at the March term and asked to be put on probation. If the Court has taken any action on this request your Committee has not been so informed.

Quite a few of the complaints were based on dissatisfaction with the services received. We made a careful investigation of all of these complaints and are happy to report that we found no evidence which would warrant any disciplinary action. In a few instances the Attorney in question was requested to be more prompt in answering correspondence. We received no complaint against an Attorney for failing to remit funds which he had collected. One complaint was filed against an elected County official for failing to forward funds, but your Committee took the position that we had no jurisdiction to police elected officials who are not Attorneys.

A rather unique complaint was received from an individual stating that an Attorney had borrowed money to obtain his education and had failed to repay it. Complainant seemed to think that your Committee should require all lawyers to pay their debts. We thought that such a precedent might have repercussions and declined to become involved.

An Attorney from another State invoked the assistance of your Committee, contending that a South Carolina Attorney had been discharged from a case but would not release all papers or recognize his discharge. The Attorney complained of answered the charges in such a clear and comprehensive manner that we asked permission to send a copy of this letter to the complaining association. This was done and the matter was cleared without further investigation.

One hearing was held which lasted for half a day, but after careful consideration of all the varied and inconsistent charges the Attorneys involved were completely exonerated.

We have tried to render all possible assistance to complainants and have given careful thought and consideration to all charges involving unprofessional conduct. Some of the complaints have presented rather interesting reading matter, but when all of the facts were analyzed in a great majority of the cases it was shown that the complainants were dissatisfied with the results obtained and there was no unprofessional conduct involved.

The chair then presented J. Kenneth Rentiers, Secretary of the Charleston County Bar. He also presented attorney Irene Krugman of the Columbia Bar and one of the very few lady members of the Bar Association.

George Savage King of the Faculty of the Law School of the University of South Carolina made the report of the Committee on Administrative Procedure.

MR. KING:

At last year's annual meeting this Committee was directed to "draft an administrative procedure act for South Carolina which will make uniform the procedure before any and all agencies of this State so far as practicable and to submit that draft to this association at its next annual meeting."

Pursuant to that directive your Committee submits the attached draft of a proposed statute. Basically it is an adaptation of the California Administrative Procedure Act which was first adopted by that state in 1945. It reflects the present trend in procedure, away from the rigid rules of the common law while preserving the essential safeguards inherent in the principle: Justice under the law.

The act is divided into two basic parts: Article I, dealing with adjudicatory functions and Article II, the quasi-legislative or substantive rule-making functions. In the first, the purpose is to guarantee minimum standards of due process in any hearing to adjudicate private rights (whether called right, license, privilege or authority) and in the second, reasonable notice with opportunity to be heard before the adoption of substantive rules which, in fact, is legislating.

It should be emphasized that this act is, of course, limited to the regulation of procedure only and in no way adds to, nor subtracts from, any of the substantive powers of any agency. Nor does it provide any right to a hearing, leaving that to existing law; but it is confined to spelling out the ground rules whenever a hearing is in order and to restoring to the public the right to petition in that vast field of legislation now traveling under a new name, to wit: adoption of rules and regulations having the force and effect of law.

A survey discloses that in the vast majority of our state agencies—with notable and important exceptions—procedure has been totally neglected in both statutes and regulations. In some others the prescribed procedures reflect a diversity unexplained by rhyme or reason. You will recall that under the existing law if "Dr. Jones" license is about to be suspended, the notice required may be five, ten or twenty days, depending on whether he is an optometrist, naturopath or dentist respectively . . . or if an M.D., "due notice" is sufficient. This act would provide uniform procedure for all the state agencies and, thus, "Dr. Jones" would be entitled to twenty days notice regardless of which of the above type doctors he happened to be—or even if it turned out that the "Dr." was only honorary, and he was in fact a contractor about to lose his license which, under present law, would entitle him to only fifteen days notice.

The mere provision that a hearing is to be held or that an agency has power to issue rules, is hardly enough if we are to heed the warning ". . . to pre-

serve in their processes the fundamental principles of freedom . . .", to use again the words of Judge John J. Parker in his 1941 address to the Nebraska State Bar Association.

The vital necessity of specific procedural rules should not seriously be doubted if one will but reflect for a moment on the current performance in Washington wherein one adjudicatory process is being examined in the glare of the klieg lights. The not infrequent stormy scenes in which it has seemed the ship itself might sink for lack of stabilizing influence of predetermined and well defined rules of procedure, should be ample evidence that the time to take on ballast is before beginning the voyage.

A quick review of the highlights of this proposed act may provide a helpful perspective for a subsequent reading of its provisions.

#### ARTICLE I.

In Article I, which regulates adjudication and comprises about two-thirds of the statute, it is provided that a hearing can be initiated only by written notice to the party and details specifications as to the content, manner of service and opportunity to answer such notice. A minimum of 20 days must have elapsed after service of the charges and before any hearing, with 10 days notice of a date certain.

Any contested hearing must be open to the public and a stenographic record made. Whenever a hearing officer who is only an agent of the agency takes evidence over objections, it must be noted, and the extent to which it is considered, indicated in his proposed decision, if any.

The rules of evidence are somewhat more relaxed than those of the courts, but the essential safeguards are preserved. Hearsay is admitted but is not sufficient by itself to support a finding except when admissible in the courts. The respondent may be required to testify, and one's own witness may be impeached. The rules of privilege are unimpaired and relevancy is required. Opportunity to refute any scientific or technical data of which the agency takes official notice, is provided.

The method of decision bars voting by any agency member who has not heard the evidence unless he has considered all the record. When a hearing officer is delegated to hear a case and propose a decision, the agency's failure to adopt such decision requires an opportunity for the party to be heard by the agency itself before it renders any decision. A decision in writing with findings of fact separately stated and copies to the parties, is provided.

Finally, judicial review is by petition to the Circuit Court of the County, but the extent of the review is not specified and would be governed by existing law.

As a practical matter, it is contemplated that extensive use of printed forms would simplify the implementation of the procedure prescribed, and in several instances the suggested form is included in the act.

#### ARTICLE II.

In Article II, which governs substantive rule-making functions, the act adopts the present requirements of our Code that no regulation is effective until filed with the Secretary of State, and extends this feature to require subsequent filing with the Clerk of Court in each county. It also requires prior notice

by the agency of its intention to adopt or alter regulations and an opportunity to be heard with reference thereto before decision. Although it sets forth in some detail the manner in which this is to be accomplished, there is full recognition that rule-making is a quasi-legislative function not to be fettered unduly by the due process protection required in adjudication. Specific authorization for declaratory judgments by the courts on the validity of any regulation is provided, in addition to any other judicial review provided by law.

It should be noted that although this act is not the same as the Model State Administrative Procedure Act recommended by the National Conference of Commissioners on Uniform State Laws, it does include the basic principles advocated in the Model Act, and it goes further in its particularization of the procedure in adjudication.

In conclusion, it cannot yet be said that for South Carolina to fail to adopt an Administrative Procedure Act would leave it one of only two states without one. But there seems to be no good reason why South Carolina should wait until such an argument would be true before acting ". . . to preserve in their processes the fundamental principles of freedom . . .".

Your Committee therefore recommends that this report be referred to the Legislative Committee for its action.

On motion of S. Augustus Black the suggestions and recommendations made by the Committee on Administrative Procedure were approved and adopted by the Association.

The chair recognized F. William Cappelmann, who gave the report of the Committee on Memorials. Upon this report being read, the members of the Association stood in silence for one minute as a tribute of respect for the departed fellow members.

#### MR. CAPPELMANN:

This Committee consists of the following named by Judicial Circuits: First — L. Marion Gressette; Second — J. Carl Kearse; Third — Wallace D. Connor; Fourth — J. B. Gibson; Fifth — F. Wm. Cappelmann, Chairman; Sixth — Angus H. Macaulay; Seventh — Harvey W. Johnson; Eighth — O. Langdon Long; Ninth — Augustine T. Smythe; Tenth — T. Sloan Banister; Eleventh — John D. Carroll; Twelfth — W. Stokes Houck; Thirteenth — C. Granville Wyche; and Fourteenth — W. Brantley Harvey.

We report the following list of South Carolina lawyers who have died since last State Bar meeting with names of writers of memorials:

#### *Deceased Lawyers*

Pinckney L. Cain, Columbia  
Robert M. Carlisle, Spartanburg  
Judge Robert A. Cooper, Laurens  
Emmett B. Gresham, Jr., Columbia  
Horace Harby, Sumter  
Clement F. Haynsworth, Greenville  
Judge Alfred W. Holman, Columbia  
Buford Jackson, Columbia

#### *Writers of Memorials*

David W. Robinson  
Carlisle Bean  
H. S. Blackwell  
James L. Gibbs  
Wallace D. Connor  
A. C. Mann  
Sidney D. Duncan  
Robert K. Wise

Samuel T. Lanham, Spartanburg  
Julien C. Lemacks, Walterboro  
Moffatt G. McDonald, Greenwood  
Archie D. Martin, Lexington  
W. Bedford Moore, Jr., Columbia  
Norval N. Newell, Moncks Corner  
Charles J. Shannon, IV, Camden  
John E. Stansfield, Aiken  
Samuel Want, Darlington

Harry E. DePass  
W. J. McLeod, Jr.  
A. C. Todd  
John D. Carroll  
J. Bratton Davis  
Marion F. Winter  
William R. Gettys  
Dorcey Lybrand  
C. T. Graydon

In hand for publication are also memorials to the following previously deceased lawyers: Jesse W. Evans, Rock Hill, by Vernon E. Sumwalt; Albert H. Ninestein, Blackville, by Sol Blatt, Jr.; Charles B. Searson, Sr., Hampton, by Clyde A. Eltzroth. We expect later to receive memorials to Basil A. Chapman, Pickens and John W. Manuel, Hampton.

This is the first year in which the Committee was appointed by Judicial Circuits instead of by Congressional Districts. The present plan appears better as making the area for any one committeeman less than previously.

Our Committee is glad to assist in perpetuating the records of members of the Bar who have worthily served and gone to their reward.

Dean Robert G. Storey, immediate past President of the American Bar Association, made a most interesting presentation of the work of the American Bar Association and the value of the new Center being established in Chicago. The Association, by a rising vote, thanked Dean Storey for his visit to the annual meeting and his participation in the program.

John B. McCutcheon of the Conway Bar gave the report of the Committee on Procedural and Law Reform.

#### MR. MCCUTCHEON:

Your Committee on Procedural and Law Reform would respectfully report: That following the Annual Bar Meeting of May 1953, your Committee held its first meeting on September 26, 1953, in Columbia. The full Committee was present at this initial meeting and there was every evidence of keen interest in the work to be undertaken.

The Committee, in determining what activities and efforts should receive first attention, gave consideration to the possibilities of making some study for the purpose of recommending improvement in the field of substantive law. Your Committee was conscious of a real need for improvement in many areas of this field and it might well have become preoccupied with the substantive law of this State—particularly since the lives and affairs of our complex society are increasingly guided and restrained by the rules of the substantive law. Your Committee was, in like measure, conscious of the natural inclination to continue with our old and familiar instrumentalities and procedures, despite changed conditions and new needs. After considerable study and thought, it was the opinion of your Committee that its first attention should be directed towards the formation of a Judicial Council for the State of South Carolina,



and that this matter should be its first undertaking. The experiences of other States have indicated that the first step in the improvement of justice and in the improvement of administrative procedure has been the establishment of a Judicial Council. Needed Judicial reforms in these other States have been systematized through the establishment of such Councils.

Your Committee, therefore, undertook as its first project the matter of the formation of a Judicial Council for this State. With the assistance of your President, Dean Samuel L. Prince, of the University Law School, the Committee proceeded to collect materials and information touching upon this matter and sought the expressions of opinion from other jurisdictions in which Judicial Councils were then in operation. Considerable study has been given by your Committee to this subject and to the materials collected. There have been several meetings of members of the Committee and a continuous exchange of ideas and thoughts between the several members. The drafting of a proposed Act creating the Council was undertaken and much progress has been made in this direction. While your Committee originally hoped to make some recommendation and proposal to the Bar at one of the Quarterly Meetings during the year just passed— it was decided that additional time should be taken in order to give further study to this matter. This study is now in process and your Committee respectfully recommends that the study be continued.

We are indebted to Dean Samuel L. Prince for his kindness and for the valuable suggestions and assistance which he gave to your Committee from time to time.

On motion of S. Augustus Black the work of this Committee was commended and the personnel of the Committee was continued for another year. President Willcox advised that the Executive Committee had continued the appointment of this same Committee already.

Mr. Black then, as Chairman of the Law School Committee, made its report.

MR. BLACK:

This Committee respectfully submits its report in relation to the University of South Carolina Law School covering various phases of its activities, with a look at its curriculum, graduates, law journal, faculty and events of interest.

#### *Curriculum*

Never let it be thought that the curriculum of the Law School is a collection of unchanging courses. On the contrary, changes are made, new courses added and old courses dropped, in an effort to keep in step with the needs of present day practitioners. The current catalogue of the Law School indicates that new courses which are being developed and getting underway include one in Jurisprudence taught by Mr. Means; one in Administrative Law, and one in Trade Regulations, both taught by Mr. King; one in Estate Planning taught by Mr. Huber; and a seminar course in Professional Standards led by Dean Prince. A study of the curriculum of our law school shows that it compares favorably with that of other law schools. It will be helpful to the faculty, in planning courses, if those members of the Association who, from time to

time, pause to contemplate the changes and needs of their own practice, will make these results known to the faculty for consideration in adapting the curriculum to the practice of today.

### *Students and Graduates*

It may come as a surprise that studies of the Law School show that on an average only two out of three students who enter the Law School are finally graduated. One-third drop by the wayside for a variety of reasons such as financial embarrassment, lack of scholarship, lack of ability, discouragement and the like. Pursuing the inquiry somewhat further, from returned questionnaires addressed to the Law School Graduates, it has been found that seventy-one per cent of those graduating have entered the general practice of law; eight per cent have entered the armed forces; a fraction over three per cent have entered specialized fields, including that of law teaching; four per cent are house lawyers of business organizations; nearly nine per cent entered the fields of Banking, Preaching, Insurance and the like; four per cent United States Government Service and 1+ per cent have become F.B.I. Agents.

If the graduates who have reported comprise a fair sampling, being some seventy per cent of the total, then it appears that only forty-six per cent, or roughly one man out of two, who enters the law school, ever reaches the general practice of law.

It is of interest that four of the twelve law teachers of the teaching staff of the University of the Air are graduates of the University of South Carolina Law School; another graduate teaches at the George Washington University Law School, and still another is teaching at the University of Louisville Law School.

Another phase of the activities of graduates has been examined, and that is in the field of the success obtained by them in passing bar examinations of other States. In the past eight years twenty-four graduates have taken examinations in other States, and it is a pleasure to report that of these twenty-four, twenty-one successfully passed these examinations and only three failed on the first attempt. States included were Kentucky, Oregon, Florida, Georgia, Missouri, Virginia, North Carolina, Wisconsin, and New York. Other jurisdictions included the District of Columbia, Hawaii and Korea. One examination was taken for admission to the U. S. Patent Office.

There was one failure in Virginia and one success, one failure in North Carolina and five successes, and one failure in Oregon. This study indicates conclusively, we believe, that the training which the students are receiving at the University Law School is entirely consistent with the type of training deemed satisfactory by the average Board of Law Examiners. It is of interest that a graduate of the South Carolina Law School who successfully took the Florida Bar Examination was in a group of only fifty per cent who passed, and also that recently in an examination in Georgia a graduate of the South Carolina Law School who passed was in the surprisingly small total of twenty-three per cent who passed.

### *Faculty*

A new addition to the faculty this summer will be Mr. Charles H. Randall, Jr., at present an assistant on the Harvard Law School faculty, and who at

Harvard has been and is chiefly in charge of what is known as the Ames Competition. Mr. Randall is a magna cum laude graduate of the academic department of Harvard University, and obtained his LL.B. from the same institution, and will receive his LL.M. this June. Dean Griswold of the Harvard Law School, who has the reputation of being most conservative, in this particular instance is surprisingly (for him) fulsome in his praise and recommendation of Mr. Randall. Mr. Randall will take the place of Mr. Huber, who leaves the Law School here for a position in the Law School of Tulane in New Orleans.

#### *Law Teachers Conference*

The Committee would call the attention of the Association to the Eighth Annual Meeting of the Southeastern Regional Law Teachers' Conference to be held on August 26-28 with the Law School of the University as host. The South Carolina Bar Association together with the Richland County Bar Association and the University of South Carolina organized this Conference eight years ago as an experiment. It has been an outstanding success—so recognized by the Association of American Law Schools—used as a model for the Western Conference now in its second year—and has contributed materially to the advancement of the Law Teaching profession. We would recommend that this Association, through its Executive Committee, in some appropriate way assist in entertaining these law deans and law teachers from over the South at this meeting in Columbia this coming August.

#### *Events of Interest in the Past Year*

In order not to burden this report, we shall mention only briefly the significant events of the past year.

On September 22, 1953, Honorable Ernest M. Brannon, Judge Advocate General of the United States Army addressed the Law Federation.

On October 6, 1953, the Law School had the honor of a visit from the President of the American Bar Association, Mr. William J. Jameson, who made a number of talks of interest to various organizations. His presence had been arranged by the Law Federation of the Law School.

On November 6th and 7th the Fall Quarterly Meeting of the Bar Association was held in Columbia. A tax institute was conducted and members of the law school participated and attended.

Another significant event is that the Law School Library has been air conditioned and it has continued to expand, especially in the direction of obtaining copies of Appeal Briefs and records from the U. S. Court of Appeals for the Fourth Circuit and of the South Carolina Supreme Court.

#### *The Law Quarterly*

The Law Quarterly has continued to maintain a high editorial standard and has published many articles and notes of interest. The June, 1953, issue contained a cumulative index that will be extremely valuable to the practitioner and is a complete indication of the scope and extent of the articles which have theretofore been published.

### *Conclusion*

The continued progress of the Law School, under its able leadership, is a source of gratification to all interested parties and it enables the Committee to forecast that the University of South Carolina Law School intends to be second to none.

Tench P. Owens of the Clinton Bar made the report of the Committee on Sectional Institutes.

#### MR. OWENS:

The Committee on Institutes, Symposiums and Seminars, under Article XXV(A) of the Constitution and By-laws of the Association, is charged with the duty of arranging other programs during the year at various times and places and upon various legal subjects. It is composed of 14 members, one from each judicial circuit.

The Committee, during the past year, its first year of existence, has held no institutes, symposiums or seminars. The excellent programs at the quarterly meetings of the Association in Columbia were arranged, we understand, under the direction of the Executive Committee or special committees, and were not the responsibility of this Committee.

However, the Committee has not been completely idle.

An organizational meeting was held at Clemson last year during the annual meeting of the Association. Mr. Irvine F. Belser, Jr., of Columbia, was named as vice-chairman of the Committee, and Mr. Fred Buzhardt, Jr., of McCormick, as secretary.

A study was initiated as to a suitable and convenient division of the State into districts within which to hold the proposed meetings with which the Committee is charged. Mr. J. H. Price, Jr., of Greenville, a member of the Committee, at the request of the Chairman, made a survey of the lawyer population in the various counties and circuits, and submitted two plans for consideration. The Committee adopted the plan dividing the State into four districts, fairly evenly divided as to number of lawyers and area, and with a large town centrally located in each district. The members of the Committee residing in a particular district are to act as a sub-committee for the purpose of arranging the proposed meetings in that district. The plan, of course, is subject to change, as we learn by experience.

Some progress has been made on preparing a list of speakers, and a list of suitable topics. We are particularly anxious that the topics be of interest and value to the average lawyer in general practice and be confined in scope so as to allow for some detail in discussion.

Two other meetings of the Committee were held during the year. We have suffered from a lack of attendance at the meetings of the Committee.

We have felt that the programs at the quarterly meetings of the Association were a great contribution to the continuing legal education of the Bar, and that, since these programs were of fairly recent origin in South Carolina, and served the same purpose as that of the Committee, perhaps we had better walk before we run, so to speak.

The need for continuing legal education for practising lawyers is too obvious to require more than mere restatement. The question is one of method. We

feel that not only may this Committee be able to render service in this connection in the future, but that the local County Bar Associations should pursue the same goal more actively than in the past.

The President, in presenting S. Henry Edmunds, Chairman of the Committee on Ethics and Professional Responsibility, quoted from the speech of Dr. George B. Cromer, President of the South Carolina Bar Association in 1910, wherein Dr. Cromer in turn was quoting Huxley as follows: "My belief is that no society composed of individuals ever did or ever will come to much whose conduct was not governed or guided by love of some ethical ideal." Mr. Edmunds then made the report of his Committee.

#### MR. EDMUNDS:

Your Committee on Ethics and Professional Responsibility would respectfully report:

Our Constitution and By-laws require that Committees report a summary of their proceedings and recommendations. This is a new Committee of the Association, and during the past year it has been feeling its way to determine the best methods by which it may discharge its "duty of encouraging high ethical standards and a deep sense of professional responsibility among the members of the Bar."

As one step towards the encouragement of high ethical standards this Committee reviewed "Legal Ethics" by Henry S. Drinker, which review was published in the South Carolina Law Quarterly in its issue of September, 1953.

It may not be inappropriate to quote here one paragraph from that review:

"A lawyer soundly brought up in the law, who wholeheartedly accepts his professional status, will rarely have any difficulty in realizing what is right and what is not in most situations. But a schooling in legal ethics will fortify him against unwitting violations of the Canons which deal not with morality but with proper conduct of a member of the profession."

We are happy to report that an organized course in legal ethics has now been started in the Law School of the University of South Carolina, and the basis of this course is Drinker's "Legal Ethics". Your Committee feels that the best time to inculcate the principles of professional ethics and responsibility is in the law school.

Insofar as your Committee has been able to discover, the South Carolina Bar is not governed by any specific Code of Ethics or Canons of Ethics. We have been advised that some years ago this Association adopted the Canons of Professional Ethics of the American Bar Association. But doubtless the Canons adopted at that time are now out of date, for they have been amended many times over the years. It may be that it is unnecessary that there be a specific Code of Ethics for the Bar of South Carolina, as it is doubtless true that the lawyers of this State are conscious of those professional standards which a Code of Ethics seeks to maintain. We suggest here that an integrated bar in South Carolina will do much for our profession.

Rule 30 of the Rules of the Supreme Court of South Carolina prescribes the recommended course of study for applicants for admission to the Bar, and

under "Ethics" the works listed are Sherwood's "Legal Ethics" (Sharswood's Professional Ethics?), and Hicks' "Organization and Ethics of Bench and Bar". Your Committee feels that there should be added Drinker's "Legal Ethics", and therefore recommends that this Association recommend to the Supreme Court of South Carolina that Drinker's "Legal Ethics" be added to the prescribed curriculum for admission to the Bar.

The Association approved the report and a recommendation to the South Carolina Supreme Court that the new work on LEGAL ETHICS by Drinker be added to the recommended courses in Rule 30 of that Court.

R. Beverley Herbert, Jr. of the Columbia Bar made the report of the Committee on Public Information.

MR. HERBERT:

In recent weeks the Chairman of our Committee has been much involved with his campaign for election to a seat in the United States Congress, and therefore has asked that I prepare and present this report for him. I am glad to do so, as I feel much has been accomplished in the past year by the Committee.

The year began well with a meeting at last year's convention at Clemson House, where Chairman Weatherford set up three sub-committees: one on Speakers' Bureau and Legal Aid, a second on Press and Publications, and a third on Radio and Television. These sub-committees, by exploring the possibilities of their respective fields, have laid the groundwork for future building of a long range permanent Public Information program.

At the Summer Quarterly meeting of our Association in Columbia, a second meeting of the Committee was held, at which time two motion pictures were studied to help in selecting one for purchase by the Association. The picture "With Benefit of Counsel" was chosen and will be shown at the luncheon today (Friday). This picture has been shown by Committee members and others in Beaufort, Gaffney and environs, Walhalla and Spartanburg and has been well received. We hope much wider use will be made of it in the months to come. All members of our Association are urged to make sure it is seen in their respective communities.

Also at the Summer Quarterly meeting the decision was made that a Committee member should go to Atlanta and learn as much as possible about the successful television program put on there by the Atlanta Bar Association and the Atlanta Lawyers Club. As a result, I went to Atlanta and spent a day with the past and current chairmen of the committee responsible for that program. With the benefit of their experience and good advice, and the wholehearted cooperation of the WIS-TV Columbia television station, the Committee launched a similar program.

As a result of correspondence growing out of nation-wide publicity given our TV program by the American Bar Coordinator (a publication of the American Bar Association), the Committee has arranged with Miss Sarah Leverette, University of South Carolina Law School Librarian, to establish a permanent section in the Law School library for Public Information books and publica-

tions. A substantial contribution to this library section was made by the Audio-Visual Research Center established at Indiana University by the Association of American Law Schools as the nation-wide clearing house for such information. Copies of the Center's catalogues of audio-visual aids are now available at the Law School library which has also been placed on the Center's permanent mailing list. In the years to come, this library section should be of great value to future Public Information Committee personnel.

The final project of the Committee was preparation of the exhibit of posters for display at our convention here in Charleston showing some of the work done by our Association during the year. The Committee drew on the talents of Mr. Augustus T. Graydon of Columbia, who, though not a member of the Committee, did an outstanding job in designing the individual posters and the exhibit as a whole. His readiness to give his time and efforts to the work of the Committee is gratefully acknowledged. We believe a principal responsibility of the Committee is to make known to Association members the good work of the entire Association, and I urge each member to give careful study to the exhibit in the mezzanine.

Reverting now to the television venture, "What's The Law", we are quite proud of what has been accomplished, though we don't feel we are due to be addressed as in one letter received from our audience, "I Am The Law".

The Committee adopted the panel type question and answer show developed in Atlanta. The design of this show takes into account the fact that we have entered an entertainment medium and must compete with professional entertainers for our audience. This is accomplished by "sugar coating" our educational message with an entertaining presentation which makes use of audience participation (through letters written in from the audience), human interest (through selection of the questions for use), and variety (by answering eight to twelve different questions per program). The public are curious about their neighbors' problems, they have problems of their own which they hope may be touched on during the program, and of course those who write in hope to hear their questions answered.

The purpose of the show, however, certainly is not merely to answer legal questions, as the Committee is not interested in giving away free legal advice. For one thing, we know generally what free advice is worth. Instead, the questions are used as a springboard to answers which point out the nature and complexity of legal problems, the hazards of laymen attempting to solve them alone, the special qualifications of lawyers to deal with them, and the advantages of Preventive Law (having wills drawn in due time and by lawyers, having titles examined before purchase, having contracts approved before signing, etc.).

Just as there are many people who do not know they are sick, or who vaguely realize they are not in good health but don't know what is wrong with them, so there are many who don't recognize legal problems when they have them, or who are worried by matters they don't quite take in as involving the law. Our TV program has helped some of these people to identify their troubles as ones which a lawyer is best able to handle. We have gotten letters saying, "I have been watching your program and realize I have a problem."

There are other people who are not sufficiently sure of their rights to assert them. Some of our letters rather clearly indicate that the writers have hesi-

tated to go to a lawyer because they are not sure their troubles are worth bothering a lawyer about. We believe there are many more who have never knowingly met a lawyer. They don't know what lawyers look like or what sort of business they work at.

In general, therefore, our program presents lawyers to the public in their own livingrooms. By illustration it teaches them what a legal question looks like, that Preventive Law will dispose of most questions while they are small and not costly to solve, and that the proper place to have such problems handled is in the lawyer's office.

To speak a moment specifically of the Columbia broadcast which has run longest, a large measure of credit for the success of our program is due to our moderator W. D. Workman, Jr., a professional news reporter and broadcast commentator, who by excellent suggestions and advice has contributed much more than his services on the set while the program is being broadcast. Also, we should mention that the first thirteen weeks of our program was sponsored by the South Carolina National Bank, and the Committee's work in the early stages was considerably aided by the financial help from that source.

Our first broadcast was on 7 November 1953, the day WIS-TV first went on the air. At present we are scheduled on Sunday afternoons at five o'clock and have a weekly audience surveyed at 35,000 people over central South Carolina. So far we have had twenty-six programs and presented seventy-eight lawyers, all members of our Association, who come from thirteen different counties in the central belt of South Carolina. We have received 120 letters from 38 different postoffices between Augusta, Georgia, and Darlington, South Carolina, inclusive.

In Greenville we have put on five programs since April 6th, our show being scheduled there on Tuesday nights.

In Florence on a closed circuit several broadcasts have been presented to the necessarily limited local audience.

Again the Committee is deeply grateful for the unhesitating and most effective cooperation of members of our Association who are not formal members of the Committee. In fact, except for such generous help, the Committee could not possibly have carried on the work it undertook in this field. In Columbia Messrs. Fred Townsend and E. W. Mullins, replaced later by Messrs. Hoke Robinson and Eston Marchant, and over the long pull from the start straight through to the present Messrs. Alva Lumpkin, Jr., Walter F. Going, Jr. and Frank Sloan have done the tedious week by week "leg work" without which no successful program can be had. In Greenville under Committeeman Burnet Maybank, Jr. we are indebted to Messrs. W. B. Traxler, B. O. Thomason, L. A. Hutson, Robert Clay and William Bouton. Besides their personal time and efforts, all the men named above have contributed the stenographic services of their offices in preparing the broadcasts for which they have been responsible. We cannot thank them enough.

It is clear that the work of the Public Information Committee must depend for its effectiveness on the help of Association members who are not formally members of the Committee.

At this particular stage in the development of our Association, when we are seeking to enlarge our membership so as to provide necessary personnel and funds to carry out the most effective program possible, the work of the



Public Information Committee in informing lawyers and laymen throughout the State of what we are doing is of great importance.

With this in mind I am sure we will continue to have the fine help of our membership at large.

Anyone who has been privileged to work on any project of our Association during the past year knows of the ready help and heartening encouragement which our President, Dean Prince, has given so generously. We in Columbia have been particularly fortunate in having him so close at hand. Needless to say, the work of our Committee could not have been done without his constant advice, assistance, and personal interest.

B. A. Moore of the Charleston Bar made the report of the Committee on Unauthorized Practice of Law.

MR. MOORE:

"The problem of unauthorized practice of the law is interrelated with the ethics of the legal profession. Justice Cardozo once said that membership in the bar is a privilege burdened with conditions. It is these conditions which make the bar useful in dispensing justice and distinguishes the profession of law from a trade or business. If these conditions are not complied with justice is imperiled and the public's guarantees are lost."

#### *I. Magistrates*

The Committee received complaints that some Magistrates, in civil actions in their courts, were drawing legal instruments such as Claim and Delivery and Attachments, and then passing on the validity of the papers they had drawn, and that in some instances they were charging fees for such services; there were also complaints that Magistrates were giving legal advice to their constituents and collecting a fee for such advice, and finally, that Magistrates were in some instances drawing deeds and wills for fees and collecting debts for a percentage of the amount collected or for fees beyond their actual allowable costs. The Committee, with the assistance of personnel from the Attorney General's office, investigated and found some basis for these complaints. The Committee had two meetings where complaining witnesses appeared in support of their contention of unauthorized practice. The Committee found that there was not sufficient evidence to warrant removal action against the offending Magistrates, but the Committee conferred with the Attorney General and presented its findings to him and he agreed to write a general letter to all Magistrates calling their attention to these instances of unauthorized practice of law and improper collection of fees.

In the course of its investigation the Committee found that under Section 43-3 of the Code any suspension of a Magistrate by the Governor, for incapacity, misconduct or neglect of duty, has to be approved or disapproved by the Senate. The effect of this provision is to give the Senator from a particular county a veto power over the action of the Governor, even if the latter determines that a particular Magistrate is guilty of misconduct. We feel that the legislative committee of the State Bar should attempt to get this statute changed so as to eliminate the necessity for approval or disapproval by the Senate, in those cases where the Governor suspends a Magistrate from office.

## II. *South Carolina Employment Security Commission*

Your Committee at its two meetings heard complaints of the unauthorized practice of law by laymen before the State Employment Security Commission, and the Committee was advised of and requested to endorse a bill then pending in the General Assembly which had passed the House and was then before the Senate. After hearing a description of the activities of certain laymen in reference to matters arising out of our Unemployment Compensation Act your Committee was and is of the unanimous opinion that these laymen were and are engaged in the unauthorized practice of law by representing and advising business concerns before the Commission. The proposed legislation was endorsed by your Committee. The proposed bill was not acted upon by the Senate.

Although the proposed legislation did not become law the House of Representatives did adopt the following resolution on March 19, 1954:

*Whereas*, it has come to the attention of the members of the House of Representatives that certain individuals may have been unlawfully engaged in the practice of law by representing certain employers before the South Carolina Employment Security Commission; and

*Whereas*, it will be to the best interest of the general public that this practice be discontinued, *Now therefore*,

Be it resolved by the House of Representatives of the State of South Carolina:

That the Attorney General of South Carolina is requested to investigate the unlawful practice of law before the South Carolina Employment Security Commission, if any, and to take whatever steps are necessary to eliminate such practices if any are found as the result of his investigation.

Your Committee feels that this Association should take all steps which may be necessary to eliminate the unauthorized practice of law by laymen in matters arising out of the South Carolina Unemployment Compensation Act, and recommends that the Association offer its cooperation to the Attorney General and take such independent action as it may deem necessary.

## III. *Building and Loan Associations*

At the two meetings of the Committee complaints were made that some building and loan associations are charging borrowers certain amounts as attorney's fees but that only a portion of the amount so charged is actually received by the attorney and that the remaining amount goes into the treasury of the lending concern. Your Committee felt that this represented the unauthorized practice of law by any building and loan association which followed such methods and your Committee has laid the matter before the Board of Bank Control, calling this situation to their attention and requesting the Board of Bank Control to investigate and take appropriate action. Your Committee recommends that the Association continue its opposition to this practice by requiring building and loan associations to show in their statement to a borrower the exact amount of legal expense or attorney's fees charged said borrower, and to pay the full amount to the attorney.

*IV. Insurance Adjusters*

Your Committee had before it the action of this Association on last year's report concerning the activities of insurance adjusters, recommending that the Standing Committee this year prepare a proposed statute or statutes to be presented to the 1954 Legislature and to take such action as is necessary to have the proposed legislation adopted. The Committee heard objections at its two meetings and was unanimously of the opinion that it could not agree with the recommendation of the Association and could not carry out the recommendation in the 1953 report. Your Committee is satisfied that there is undoubted unauthorized practice of the law by certain independent insurance adjusters and by company paid adjusters, and recommends that the Association study the matter further. Your Committee is unanimous in this position and felt it could not make a specific recommendation as to certain abuses, and was unable to carry out the recommendation made by this Association to it last year.

Frank B. Gary moved that the Standing Committee on Unauthorized Practice of Law be given authority, if it deems desirable, to institute appropriate litigation either in their own names or in the name of the Association or otherwise in suppressing unauthorized practice, provided that the suggested litigation meets with the approval of the Executive Committee. This motion was seconded and, after some discussion and comments by President Willcox, Senator L. Marion Gressette and J. Edwin Belser, was duly passed.

On motion of J. Davis Kerr the Association created a new office to be known as Director of Institutes, this director to be selected annually by the Executive Committee with no limitation as to re-appointment.

James B. Murphy proposed a resolution of thanks to the Charleston County Bar Association and to Mrs. Robert McC. Figg, Jr. and her fellow committee members for their splendid efforts and entertainment, which resolution was enthusiastically adopted.

Upon motion of Frank B. Gary, the Association directed the Secretary to send an appropriate communication to the family of Senator Clyde Hoey of North Carolina upon his death.

The Association directed the Secretary to send appropriate messages to our absent retired judges.

During the morning the ladies of Charleston entertained the visiting ladies with a tour to Seaside Farm, the home of attorney J. C. Long.

### Friday Afternoon, May 14th

At 1:00 a buffet luncheon was served the members and their guests at the Fort Sumter Hotel. Immediately following this and at the same location the Committee on Public Information gave a showing of a picture "With Benefit of Counsel".

At 2:30 the members of the Association, their ladies and guests, were the guests of the South Carolina Ports Authority and the United States Coast Guard on a delightful harbor cruise.

### Friday Evening, May 14th

At 6:30 in the Terrace Room of the Fort Sumter Hotel the members of the Association, their ladies and guests were the guests of the Lawyers Title Insurance Corporation and Lawyers Abstract Company at a cocktail party.

At 8:00 the visiting ladies were carried by special conveyances to the Officers' Club at the Navy Yard and entertained at a buffet supper as the guests of the Charleston ladies.

At 8:30 the Association held its annual banquet. President Robert McC. Figg, Jr. of the host Bar introduced recently elected Associate Justice, Honorable Lionel K. Legge, who made a gracious and inspiring talk. Governor James F. Byrnes was enthusiastically received when he arose and presented Honorable Donald R. Richberg of the Washington, D. C. Bar, who in turn addressed the banqueters on the subject, "Reminiscences of a Renegade". It is doubtful as to whether any banquet address of the Bar Association has ever been received with any more applause and enthusiasm.

President Prince then called upon Honorable J. Henry Johnson, the oldest member of the State Judiciary in point of service, to call the roll of the Judiciary in South Carolina. In presenting Judge Johnson the President paid high tribute to the South Carolina Judiciary, both State and Federal. Next were presented the past Presidents of the Association in attendance at the banquet—W. Brantley Harvey, Sam R. Watt, Frank A. McLeod, C. T. Graydon, George Warren, Edgar A. Brown, and Charles W. Muldrow—and also the immediate past Circuit Vice-Presidents of the Association. Following this the new officers were presented. Communications from members of the Judiciary who were unable to attend were read. The toastmaster then read a wire from Judge Marvin M. Mann as follows: "Temporary indisposition prevents my being with you. Please convey to all the brethren my abiding love and affection. Memories of fine friendships now vanished and now still existent

enrich the fading years with pride in the past and confidence in the future. God bless every one of you."

Scattered over the banquet tables were copies of the menu of the Bar Association banquet of fifty years ago that was probably the most elaborate menu any member of the Association had seen at any time during the past fifty years.

Before adjournment ex-President Robert G. Storey of the American Bar Association was again presented and thanked for his fine contribution to the meeting. In conclusion President Prince stated that probably the man who had contributed the most to the development of legal education in the State of South Carolina was Dean J. Nelson Frierson, and he called upon Dean Frierson to rise and receive their thanks. The members then rose with their applause as a tribute of appreciation and respect to Dean Frierson, and the banquet was over.

### Saturday Morning, May 15th

At 10:00 the third and last session of the 60th annual meeting was held.

Charles W. Muldrow of the Florence Bar invited the Association to have its annual meeting next year at Myrtle Beach with the Bars of that area as the hosts. This invitation was referred to the Executive Committee.

The President stated that Marion L. Powell of Aiken was unable to stay and make a report on the organization and operation of the Aiken Legal Society. The President said that this was a most novel organization, certainly in our State — that the Aiken Legal Society met once a week for breakfast for one hour and considered some matter of preventive law or some other subject that would tend to advance the administration of justice or improve its members professionally.

General L. G. Merritt, Chairman of the Committee of the Annual Review of Statutory Law, was unable to be present but sent word that his Committee's survey of statutory law was ready for delivery to the editors of the *Law Quarterly*.

Chairman J. W. Bradford, Jr., of the special committee to audit the accounts of the Secretary-Treasurer, reported that his committee had met and had audited the accounts, found them in order, and recommended their approval. Thereupon the Association approved the report of the Secretary-Treasurer and expressed their thanks.

The President next reported that the Summer Quarter Meeting of the Association had been held on September 18th and 19th, and that

the sessions were devoted to the study of taxes as follows: "Fraud Cases" — Mills Kitchin, of Atlanta, Georgia; "Capital Gains and Losses" — Frederick L. Pearce, Washington, D. C.; "Tax Aspects of Real Estate Law" — Calder W. Womble, Winston-Salem, North Carolina; "Returns of Farmers Using Cash and Accrual Accounting Methods" — J. A. Neely, Jr., Anderson, and Braxton C. Wallace, Greenwood. The Committee in charge consisted of J. Alex Neely, Jr., B. C. Wallace, R. L. Stoddard, Henry B. Smythe, and Richard G. Huber.

The Fall Quarter Meeting was held on November 6th and 7th. The sessions were devoted to the study of the Federal Statutes as follows: "The Role of the Private Practitioner in Federal Regulation" — Henry H. Fowler, Washington, D. C.; "Restraints of Trade and Unfair Competition" — Edward P. Hodges, Washington, D. C.; "The Federal Food, Drug and Cosmetic Act" — William W. Goodrich; and "Major Agricultural Acts" — Neil Brooks, Washington, D. C. The Committee in charge consisted of Isadore Bogoslow, William K. Charles, Jr., E. Fritz Hollings, and George Savage King.

The Winter Quarter Meeting was held on January 22nd and 23rd, 1954. The sessions were devoted to the study of Federal Practice as follows: "Trends in Improving the Administration of Justice-Contribution of the New District Court Rules in This Trend" — Hon. John J. Parker, Charlotte, North Carolina; "Modern Pleadings in United States District Courts" — Charles Alan Wright, Minneapolis, Minnesota; "Discovery, Interrogatories, Depositions and Pre-Trial Examinations in United States District Courts" — Herbert Ralph Baer, Chapel Hill, North Carolina; and "Pre-Trial Conferences and Pre-Trial Procedural Devices Other Than Pleadings and Pre-Trial Examinations" — Aubrey Russell Bowles, Jr., Richmond, Virginia. The Committee in charge consisted of William L. Watkins, F. Dean Rainey, and Augustus T. Graydon. The Quarterly Meetings were held in Columbia.

President Prince turned the gavel over to the new President, Hugh L. Willcox, and at the same time again expressed his appreciation for the fine support the officers and Committeemen had given to him during the past year. David W. Robinson on behalf of the Association expressed appreciation for the "tremendous work Mr. Prince has done as President of the Association" and moved a vote of thanks. The motion was carried. He also moved that the By-Laws be amended to provide that the immediate past President of the Association each year be a member of the Executive Committee. This motion was carried.

J. Bratton Davis moved the adoption of the following resolution, which motion was unanimously carried:

MR. DAVIS:

*Whereas, E. Smythe Gambrell, a native son of South Carolina, is a distinguished gentleman of integrity and a lawyer of unusual ability; and*

*Whereas, he, for twenty-nine years, has worked untiringly for the promotion of the aims of the American Bar Association, holding many responsible positions therein; and*

*Whereas, he has the qualifications for active, intelligent and progressive leadership of the American Bar Association,*

*Now, Therefore, Be It Resolved That the South Carolina Bar Association, in its Annual Meeting assembled, hereby endorses E. Smythe Gambrell for the Presidency of the American Bar Association.*

The Association entered a vote of thanks to the South Carolina Electric and Gas Company for the buses which took the ladies to the buffet supper on Friday evening and also directed the Secretary to write the Coast Guard thanks for the fine boat trip. Mr. Bradford commended Mr. Monteith for his services as Secretary-Treasurer and moved a vote of thanks for Mr. Monteith. This motion was unanimously adopted. Mr. W. C. Boyd moved a vote of thanks to the Charleston Bar for the fine time that everyone had had at this meeting. This motion was unanimously carried.

The President stated that the three objectives of the Association would be: (1) to continue the Quarterly Meetings and see if we could encourage greater attendance at these meetings, (2) try to build up the membership of the Association, and (3) to bring about the integration of the South Carolina Bar.

11:00 A. M.

New Committees for year met and planned their work.

ADJOURNMENT